

**REMARKS**

Claims 1-16 are pending in this application. Claims 1-16 have been rejected under 35 U.S.C. §103. Claims 1-14 have been rejected under 35 U.S.C. 112. Claims 1-7 and 9-15 have been amended. No new matter has been added. Reexamination and reconsideration are respectfully requested.

**Rejection Under 35 U.S.C. §103**

The Examiner has rejected Claims 1-16 under 35 U.S.C. §103 as being unpatentable over Embrey, U.S. Patent #6,311,170 in view of Martin, U.S. Patent #6,304,860. This rejection is respectfully traversed. However, in order to more clearly recited embodiments of Applicant's invention over the art cited by the Examiner, Applicant has amended Claims 1-7 and 9-15. No new matter has been added.

As amended, Claim 1 now recites a method for managing a payment between a seller and a buyer using a network, comprising, *inter alia*, the steps of *directly* verifying the buyer using the seller's terminal, *directly* verifying the seller using the buyer's terminal, and *directly* transferring payment from the buyer's bank to the seller's bank. Claim 9 recites a similar system claim. These limitations are not disclosed in Embrey or Martin, individually or in combination.

Embrey is directed toward a method and apparatus for making payments and delivering payment information. In Embrey, payments between a payor and a payee are facilitated by a trusted intermediary financial institution. (Embrey, col. 11, ll. 5-13; Fig. 4). In Embrey, financial information relating to the payor and the payee is coordinated by the trusted intermediary financial institution. Payment is processed by the trusted intermediary financial institution. All operations in Embrey pass through the trusted intermediary financial institution. There is no direct verification between payor and payee, or seller and buyer, and there is no direct payment from the payee's bank to the payor's bank as claimed by Applicant.

Martin is directed toward an automated debt payment system and method using an ATM network and suffers from the same deficiencies as Embrey. In Martin, payments between a creditor and a debtor are facilitated by a third party. (Martin, col. 8, l. 63 to col. 9, l. 7; Fig. 2; Fig. 4). In Martin, financial information relating to the creditor and the debtor is

coordinated by a third party and payment is processed by the third party. All operations in Martin pass through the third party. There is no direct verification between creditor and debtor, or seller and buyer, and there is no direct payment from the debtor's bank to the creditor's bank as claimed by Applicant.

In contrast, Applicant verifies information directly between a seller and a buyer. Moreover, payment between a seller and a buyer is effected directly between the seller's bank and the buyer's bank. In embodiments of Applicant's invention, there is no need for coordination of payment or information verification by a third party. Thus, embodiments of Applicant's invention are far more efficient than the systems described by Embrey and Martin.

Accordingly, there are limitations claimed by Applicant in Claims 1 and 9 that are not disclosed or suggested, individually or in combination, by Embrey or Martin. Therefore, a *prima facie* case of obviousness has not been made. Thus, Claims 1 and 9 are not obvious in view of Embrey and Martin. Moreover, Claims 2-8 and 10-16, which depend either directly or indirectly from Claims 1 and 9, respectively, are not obvious in view of Embrey and Martin for at least the same reasons as Claims 1 and 9.

#### **Rejection Under 35 U.S.C. §112**

The Examiner has rejected Claims 1-14 under 35 U.S.C. §112, second paragraph, as failing to set forth the subject matter which applicant regards as the invention, stating that the independent claims are too broad to permit any distinction *vis a vis* the prior art to ascertain claimed novelty. This rejection is respectfully traversed.

As stated previously, Claim 1, as amended, recites a method for managing a payment between a seller and a buyer, comprising, *inter alia*, verifying the buyer using the seller's terminal, verifying the seller using the buyer's terminal, and directly transferring payment from the buyer's bank to the seller's bank. Claim 9 recites a similar system claim. As stated in connection with the rejection under §103, above, the art cited by the Examiner fails to disclose or suggest this method and system of payment. Accordingly, Claims 1-14 are not too broad but, indeed, are novel and non-obvious in light of the art cited by the Examiner.

However, for clarity, Applicant has amended Claims 1-7 and 9-15 so that they now include the terms "seller" and "buyer" rather than "entity A" and "entity B," respectively.

Support for these amendments may be found, *inter alia*, at page 6, lines 10-15, of the specification originally filed.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date December 11, 2003

FOLEY & LARDNER  
Customer Number: 22428  
Telephone: (202) 672-5407  
Facsimile: (202) 672-5399

By   
*Irvine C. Harrington, III* 26,257  
Irvine C. Harrington, III  
Attorney for Applicant  
Registration No. 44,740